

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8398 OF 2005

Vishwas Co-op. Bank Ltd. Applicants
versus
Rukminibai Shaligram Gondkar Respondents
and others

Mr.Suresh M. Sabrad for applicants.
Mr.F.P.Frederick for respondents 1 and 2.
Mr.R.Y.Mirza, APP for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 6th October 2006

PC :

1. Mr.Frederick appearing for respondents 1 and 2 states that the said respondents are unable to pay the entire sum as claimed by the bank namely Rs.6,41,533/-. This amount according to Shri Sabrad is computed by the petitioner bank after scaling down the rate of interest to 10%. If the bank rate is to be applied, then the amount would be Rs.8,09,408/-.

2. Shri Sabrad after taking instructions from the concerned officer of the bank makes a statement that if respondents 1 and 2 make payment of Rs.6,41,533/- within six months, the bank would accept the said amount in full and final settlement.

3. Mr.Frederick states that the respondents 1 and 2 would require a longer time to make this payment.

4. In my view, the application presently filed is for cancellation of order of anticipatory bail. The said order is passed on 9th December 2005. By now the charge sheet may have been filed. In such circumstances, no useful purpose will be served by going into the merits of this application. It is directed that this order will continue till filing of charge sheet and if the same is already filed, two weeks time is given to respondents 1 and 2 to apply to the Regular Court for enlarging them on bail. Needless to state that if the application is not filed within this period, the order dated 9th December 2005 would come to an end automatically without any further reference to this Court.

5. Additionally, if respondents 1 and 2 pay the sum of Rs.6,41,533/- by 31st March 2007, the same to be accepted in full and final settlement. Needless to state that the said amount be paid in such instalments as are agreed between the parties. In no case time shall stand extended

beyond 31st March 2007.

6. Mr.Frederick after taking instructions from respondents 1 and 2 makes a statement that respondent no.1 has filed a suit which is pending and thereafter an appeal is filed, however, there is no order restraining the petitioner bank to dispose off the property which is mortgaged to it in execution of the Recovery Certificate granted in its favour. In the light of this statement, it would be open for the petitioner bank to proceed and execute the Recovery Certificate,if necessary, by disposing off the mortgaged properties, in case respondents 1 and 2 and petitioners do not, within a period of two weeks from today, enter into such terms as would enable the respondents 1 and 2 to pay the sum referred to above within the time stipulated above.

7. Mr.Frederick upon taking instructions makes a further statement that respondents 1 and 2 would make payment of Rs.50,000/- to the petitioner bank within a period of three weeks from today which payment would be without prejudice to the rights and contentions of both sides. Application disposed of.

((-4-))

(S.C.DHARMADHIKARI, J.)